

IBM CORPORATION  
INTELLECTUAL PROPERTY LAW DEPARTMENT  
11400 BURNET ROAD  
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FAX # 512

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SEND TO: United States Patent Office  
Examiner: H. N. Patel  
Group Art Unit: 2126  
Tel No: (571) 272-3943  
Fax #: 703-872-9306

FROM: J. B. KRAFT  
Tel No: 512-473-2303

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Docket No. AVS920040272051 Serial No. 09/589,799 Atty: J. B. KRAFT

Applicant: \_\_\_\_\_

<input type="checkbox"/> Transmittal Letter (2 copies)	<input type="checkbox"/> Certificate of Facsimile
<input type="checkbox"/> Preliminary Amendment	<input type="checkbox"/> Notice of Appeal
<input checked="" type="checkbox"/> Amendment AF	<input type="checkbox"/> Appeal Brief (3 copies)
<input type="checkbox"/> Ext. of Time	<input type="checkbox"/> Reply Brief
<input type="checkbox"/> IDS Statement	<input type="checkbox"/> Change of Address
<input checked="" type="checkbox"/> Other <u>Interview Request</u>	

Deposit Acct. No. \_\_\_\_\_

Fees: Amendment \_\_\_\_\_ Notice of Appeal \_\_\_\_\_ Appeal Brief \_\_\_\_\_ Other \_\_\_\_\_

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: B. S. Baweja et al.

DOCKET NUMBER: AUS920000172US1  
Date: 12/9/04

Serial No.: 09/589,799

Filed: June 8, 2000

For: AN INTERACTIVE DATA PROCESSOR CONTROLLED DISPLAY INTERFACE FOR TRACKING OF ALLOCATED MESSAGES IN A DYNAMIC WORKLOAD  
BALANCING COMMUNICATIONS SYSTEMCOMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is a Response in the above-identified Application.

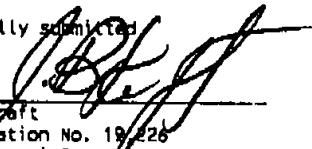
☒ No additional fee is required.☐ The fee has been calculated as shown below:

	Claims Remaining After Amendment		Highest No. Previously Paid For		Present Extra	Rate	Addit. Fee
Total	14	MINUS	20	=	0	x 18 =	\$0
Indep.	3	MINUS	6	=	0	x 86 =	\$0
1st Presentation of Multiple Dep. Claim						x 290 =	\$0
TOTAL							\$0

☐ Please charge my Deposit Account No. 09-0447 in the amount of \$\_\_\_\_\_. A duplicate copy of this sheet is enclosed.☐ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account 09-0447. A duplicate copy of this sheet is enclosed.☒ Any additional fees required under 37 CFR §1.16 for the presentation of extra claims.☒ Any patent application processing fees under 37 CFR §1.17.

Respectfully submitted

By

  
J. B. Kraft  
Registration No. 19,226  
Intellectual Property Law Dept.  
IBM Corporation  
11400 Burnet Road - 4054  
Austin, Texas 78758  
(512) 473-2303

DEC 09 2004

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: : Group Art Unit: 2126  
: Examiner: H. N. PATEL  
Balajeet S. Baweja et al. : Intellectual Property  
Serial No: 09/589,799 : Law Department - 4054  
Filed: 06/08/2000 : International Business  
Title: AN INTERACTIVE DATA : Machines Corporation  
PROCESSOR CONTROLLED DISPLAY : 11400 Burnet Road  
INTERFACE FOR TRACKING OF : Austin, Texas 78758  
ALLOCATED MESSAGES IN A : Customer No. 32,329  
DYNAMIC WORKLOAD BALANCING :  
COMMUNICATION SYSTEM :  
Date: 12/09/04 :

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence including The present Response, an accompanying Transmittal letter, and interview request is being transmitted via facsimile to USPTO, Group Art Unit 2126 at telephone number 703-872-9306, and to the attention of Examiner H. N. Patel on  
12/09/04.

RESPONSE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Sir:

This is in response to the Office Action mailed November 19, 2004.

AUS920000172US1

PATENT  
09/589,799

The Gossler Patent (US6,799,173) is owned by the assignee of the present application, and thus is barred from being used by 35 USC 103(c).

The Gossler patent is owned by International Business Machine Corporation, the common assignee in the present Application. This commonly owned Gossler patent is precluded from being used in any 35 USC 103 rejection under 35 USC 103(c). The Gossler patent was owned by International Business Machines Corporation at the time the invention of the present Application was made. The file of the present Application indicates that an Assignment of the present Application to the common Assignee is filed in the Patent Office. Also the printed Gossler patent indicates that it is assigned to the same Assignee. Since the present Application has a filing date after November 29, 1999, and the Gossler patent would qualify as prior art under the provisions of 35 U.S.C. 102(e), it is submitted that the Gossler patent can not be used to preclude patentability based upon 35 U.S.C. 103(c). [Examiner's attention is directed to MPEP Sections [706.02(1); (1)(1); (1)(2); and (1)(3).] Accordingly, Examiner is respectfully requested to withdraw Gossler as a reference in the 35 USC 103(a) rejection.

It is submitted that Examiner has incorrectly interpreted the law involved in the present prosecution. All the statute requires is that there is common ownership, and that the present Application be made after November 29, 1999. The present Application meets both of these conditions.

Thus, without Goessler, there is no other basis for a rejection under 35 USC 103. Therefore, claims 1, 3-7, 9-12, and 14-17 are submitted to be in condition for allowance, and such allowance is respectfully requested.

PATENT  
09/589,799

If the Examiner is still not ready to withdraw Goessler, Applicants respectfully request a telephone interview so that this issue may be framed for purpose of appeal. Since this interview involves an issue of law, it is respectfully requested that a supervisory examiner be present at the interview. (An Interview Request form, PTOL-413A is attached)

Respectfully submitted,

*J.B. Kraft 12/09/04*  
J. B. Kraft  
Attorney for Applicants  
Registration No. 19,226  
(512) 473-2303

ALL CORRESPONDENCE SHOULD BE DIRECTED TO:

Jeffrey S. LaBaw  
IPLaw Dept. - IMAD 4054  
IBM Corporation  
11400 Burnet Road  
Austin, Texas 78758

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